

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

CUSTOMS AND TAX  
ADMINISTRATION OF THE KINGDOM  
OF DENMARK  
(SKATTERFORVALTNINGEN) TAX  
REFUND SCHEME LITIGATION

This document relates to: Cases listed in  
Appendix A to Pretrial Order No. 35 (ECF  
No. 977)

MASTER DOCKET

18-md-2865 (LAK)

**DECLARATION OF DANIEL C. DAVIDSON IN SUPPORT OF  
DEFENDANTS' BRIEF REGARDING ISSUES OF FOREIGN LAW  
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 44.1**

I, Daniel C. Davidson, an attorney duly admitted to practice law before the courts of the State of New York, hereby declare under penalty of perjury:

1. I am an associate at Kostelanetz LLP, counsel for Azalea Pension Plan, Basalt Ventures LLC Roth 401(K) Plan, Bernina Pension Plan, Bernina Pension Plan Trust, Michelle Investments Pension Plan, Omineca Pension Plan, Omineca Trust, Remece Investments LLC Pension Plan, Starfish Capital Management LLC Roth 401(K) Plan, Tarvos Pension Plan, Voojo Productions LLC Roth 401(K) Plan, Xiphias LLC Pension Plan, John van Merkenstijn, III, and Elizabeth van Merkenstijn in these actions. I am fully familiar with the matters set forth in this declaration.

2. I submit this declaration in support of Defendants' Brief Regarding Issues of Foreign Law Pursuant to Federal Rule of Civil Procedure 44.1.

3. Attached hereto as Exhibit 1 is Defendants' Reply Memorandum of Law in Support of Their Motion to Dismiss the Complaints Pursuant to Federal Rule of Civil Procedure 12(b)(1), ECF No. 183.

4. Attached hereto as Exhibit 2 is Pretrial Order No. 13 (Defendants' Motion to Dismiss Under Rule 12(b)(1)), ECF No. 243.

5. Attached hereto as Exhibit 3 is Defendants' Memorandum of Law in Support of Their Motion to Dismiss the Complaints Pursuant to Federal Rule of Civil Procedure 12(b)(1), ECF No. 135.

6. Attached hereto as Exhibit 4 is Defendants' and Third-Party Defendant's Memorandum in Support of Motion for Summary Judgment, ECF No. 799.

7. Attached hereto as Exhibit 5 is the Declaration of Foreign Law of Kasper Bech Pilgaard, dated April 27, 2022 (the "Apr. 27, 2022 Pilgaard Decl."), ECF No. 801.

8. Attached hereto as Exhibit 6 is SKAT's Legal Guide § C.B.2.1.6.1, Exhibit 50 to the Apr. 27, 2022 Pilgaard Decl., ECF No. 801-50.

9. Attached hereto as Exhibit 7 are SKAT's Reclaim Requirements as of April 12, 2022, Exhibit 84 to the Apr. 27, 2022 Pilgaard Decl., ECF No. 801-84.

10. Attached hereto as Exhibit 8 is the Declaration of Foreign Law of Anders Ørgaard, dated November 22, 2021, ECF No. 802.

11. Attached hereto as Exhibit 9 is Reply Expert Report of Graham Wade, Exhibit 3 to the Declaration of Brandon R. Dillman, dated June 6, 2022, ECF No. 813-3.

12. Attached hereto as Exhibit 10 is Plaintiff's Memorandum of Law in Opposition to Defendants' and Third-Party Defendant's Motion for Summary Judgment, ECF No. 831.

13. Attached hereto as Exhibit 11 is the Declaration of Mads Bryde Andersen dated June 6, 2022 (the “Andersen Decl.”), ECF No. 834.

14. Attached hereto as Exhibit 12 is a certified translation of a judgment by the Eastern High Court dated 28 April 2022, Exhibit 34 to the Andersen Decl., ECF No. 834-41.

15. Attached hereto as Exhibit 13 is the Declaration of Foreign Law of Henning Aasmul-Olsen, dated June 6, 2022, ECF No. 836.

16. Attached hereto as Exhibit 14 is Defendants’ and Third-Party Defendant’s Reply Memorandum in Support of Their Motion for Summary Judgment, ECF No. 837.

17. Attached hereto as Exhibit 15 is the Declaration of Foreign Law of Kasper Bech Pilgaard, dated June 27, 2022, ECF No. 838.

18. Attached hereto as Exhibit 16 is the Declaration of Foreign Law of Anders Ørgaard, dated June 24, 2022, ECF No. 839.

19. Attached hereto as Exhibit 17 is Pretrial Order No. 36 (Trial One Pretrial Schedule), ECF No. 978.

20. Attached hereto as Exhibit 18 is the November 20, 2023, Memorandum Opinion, *In re Customs and Tax Administration of the Kingdom of Denmark (SKAT) Tax Refund Litigation*, 2023 WL 8039623.

21. Attached hereto as Exhibit 19 is James Steven Rogers, Policy Perspectives on Revised U.C.C. Article 8, 43 UCLA L. REV. 1431 (June 1996).

22. Attached hereto as Exhibit 20 is a copy of Kursgevinstloven, the Danish Capital Gains Act, available at <https://www.retsinformation.dk/eli/ita/2022/1390#P1>.

23. Attached hereto as Exhibit 21 is a Google-translated copy of the Danish Capital Gains Act.

24. Attached hereto as Exhibit 22 is Defendants' Rule 44.1 Notice of Intent to Raise Issues of Foreign Law.

25. Attached hereto as Exhibit 23 is a copy the Danish Tax Control Act, *available at <https://www.retsinformation.dk/eli/ita/2024/12>.*

26. Attached hereto as Exhibit 24 is a Google-translated copy of the Danish Tax Control Act.

I, Daniel C. Davidson, declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
June 24, 2024

Respectfully submitted,

KOSTELANETZ LLP

By: **/s/ Daniel C. Davidson**  
Sharon L. McCarthy  
Nicholas S. Bahnsen  
Daniel C. Davidson  
7 World Trade Center, 34<sup>th</sup> Floor  
New York, New York 10007  
Tel: (212) 808-8100  
Fax: (212) 808-8108  
ddavidson@kostelanetz.com